

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

In Re:

AUBREY BRUCE WRING and
VIRGINIA A. WRING,

Case No. 10-21899-pjd
Chapter 11

Debtors.

**CHAPTER 11 TRUSTEE'S MOTION TO DETERMINE LOAN BALANCES OWED BY
REORGANIZED DEBTOR TO SETERUS, INC., AS SERVICER FOR
FEDERAL NATIONAL HOME MORTGAGE ASSOCIATION, AS
ASSIGNEE OF JPMORGAN CHASE BANK**

Michael P. Coury, Chapter 11 Trustee for Aubrey Bruce Wring and Virginia Ann Wring, moves the Court, pursuant to the terms of the confirmed Plan of Reorganization, to determine proper balances owed by the reorganized Debtor to Seterus, Inc., and in support of his Motion, would show the Court as follows:

FACTS

1. Movant, Michael P. Coury, is the duly appointed and acting Chapter 11 Trustee for Aubrey Bruce Wring and Virginia Ann Wring.

2. On December 9, 2016, the Trustee filed his First Amended Plan of Reorganization. Federal National Home Mortgage Association ("FNMA") was listed as a creditor under Class 8 of the Plan.

3. FNMA, by and through Seterus, Inc., filed certain objections to the First Amended Plan of Reorganization. See D.E. 2082-2093. The Trustee and FNMA resolved their objection by making modifications to the treatment of FNMA's Class 8 claims as set forth in the

Third Amendment to Chapter 11 Trustee's First Amended Plan of Reorganization [D.E. #2174] filed on April 21, 2017.

4. On May 2, 2017, the Court entered its Order Confirming Chapter 11 Trustee's Plan [D.E. #2180].

5. Pursuant to the terms of the Third Amendment to the Plan, FNMA was listed as a creditor holding a first priority deed of trust on the following parcels of real property¹:

Claim No.	Proof of Claim Amount ²	Property Address
48	\$102,097.96	3999 Autumn Springs, Memphis, TN x
84	\$99,948.84	4014 Autumn Springs, Memphis, TN x
45	\$110,977.69	5295 Cherokee Rose, Memphis, TN x
54	\$93,701.09	6315 Farm Hill, Memphis, TN x
49	\$95,484.90	5371 Farm Ridge, Memphis, TN x
47	\$94,948.93	6320 Hayfield Lane, W., Memphis, TN x
56	\$92,094.75	6329 Hayfield Lane, Memphis, TN x
55	\$93,701.09	6335 Hayfield Lane, Memphis, TN x
52	\$110,659.58	5987 Hickory Grove, Memphis, TN x
8	\$60,913.82	3027 Ridgeway, Memphis, TN x
38	\$61,167.23	3322 Ridgeway, Memphis, TN x
53	\$51,141.10	6738 Valley Bend, Memphis, TN x
57	\$46,510.26	1599 Wilson, Memphis, TN x
50	\$99,769.98	7800 Redfearn Cir. South, Memphis, TN 38133 x

6. The effective date of the Plan was June 2, 2017. Pursuant to the terms of the Plan, FNMA was required to submit to the Chapter 11 Trustee an itemized statement of the outstanding loan balances, including any late charges, legal fees, arrearages or other charges asserted by FNMA. The loan balances shown on the itemized statement were to be deemed to be

¹ The First Amended Plan erroneously listed the property located at 5831 Jardin Place as being a Class 8 property. Pursuant to the Third Amendment to the First Amended Plan, that property was moved to new Class 8A.

² The listed values represented the loan balances as of the date of the petition on February 19, 2010 and not the current balances as of the Effective Date of the Plan.

the outstanding loan balances owed to FNMA for purposes of the Plan, unless disputed by the Chapter 11 Trustee.

7. FNMA failed to provide itemized statements of the outstanding loan balances prior to the effective date of the Plan. Pursuant to the terms of the Plan, the Trustee filed three motions seeking to extend the time within which various unresponsive creditors, including FNMA, could submit their itemized statements. The last extension of time expired on October 20, 2017. As of that date, no itemized statement has been provided by FNMA.

8. Pursuant to the terms of the confirmed plan, the Chapter 11 Trustee determined the outstanding balances on the Class 8 properties as of July 1, 2017 to be as follows based on the most recent information provided by FNMA as of the Effective Date:

Property Address	Balance
3999 Autumn Springs	\$86,499.08
6320 Hayfield Lane West	\$80,682.33
6329 Hayfield Lane West	\$76,510.17
5987 Hickory Grove Lane	\$93,773.55
3322 Ridgeway Road	\$48,682.01
6738 Valley Bend	\$25,084.56
7800 Redfearn Circle	\$79,669.80
4014 Autumn Springs	\$83,591.99
5295 Cherokee Rose Lane	\$93,259.25
6315 Farm Hill Drive	\$78,598.96
5371 Farm Ridge Drive	\$80,809.91
6335 Hayfield Lane	\$78,377.47
3027 Ridgeway Road	\$48,832.53
1599 Wilson Road	\$38,984.11

Pursuant to the terms of the Plan, the Chapter 11 Trustee re-amortized the mortgage balances on the terms set forth in the Plan and has been making the modified mortgage payments commencing with the July 1, 2017 payment.

8. In January 2018, new counsel for FNMA, as serviced by Seterus, Inc., filed a notice of appearance in this case.

9. In spite of the expiration of time for FNMA to submit an itemized statement, counsel for the Trustee sought to verify the account balances asserted by FNMA notwithstanding the expiration of time to provide such statements under the terms of the Plan.

10. On January 26, 2018, the Chapter 11 Trustee was provided by email with payoff quotes for seven of the FNMA loans covered under Class 8. Payoff quotes were provided for the following properties:

6738 Valley Bend Drive
Memphis, TN 38141

3999 Autumn Springs Cove
Memphis, TN 38125

6329 Hayfield Lane West
Memphis, TN 38141

5987 Hickory Grove Lane
Memphis, TN 38134

7800 Redfearn Circle South
Memphis, TN 38133

3322 Ridgeway Road
Memphis, TN 38115

6320 Hayfield Lane West
Memphis, TN 38141

11. Approximately two days after receiving the above mentioned payoffs, the Trustee's management company, Affordable Management, LLC, received from Seterus/FNMA, IRS Forms 1098 for calendar year 2017 on all of the properties in Class 8. The Trustee has reviewed the principal balance of the outstanding balances asserted by FNMA/ Seterus in its payoff statements and its 2017 Form 1098 statements. The 2017 Form 1098 loan balances are inconsistent with the prior year end mortgage balances after adjusting for payments made pursuant to original contract terms for the first six months of 2017.

12. Attached as Exhibit 1 to this Motion is a spreadsheet showing the loan principal balances as of July 1, 2017 as reflected by the Chapter 11 Trustee's records based on the principal loan balances of the respective loans as of December 31, 2016, as adjusted for mortgage payments made for the first six months of 2017 prior to the Effective Date of the Plan. Based on the Trustee's analysis, it appears to the Chapter 11 Trustee that Seterus has added an aggregate amount of \$114,522.90 to the principal mortgage balances on those properties for which payoff statements have been provided. It further appears that Seterus has added an additional principal amount of \$81,619.70 to the mortgage balances on the remaining properties.

13. The Trustee disputes the balances asserted by FNMA/Seterus and asserts that the true principal balances are as set forth below:

Claim No.	12/31/17 Balance	Property Address
48	\$86,225.12	3999 Autumn Springs, Memphis, TN
84	\$80,134.86	4014 Autumn Springs, Memphis, TN
45	\$92,887.63	5295 Cherokee Rose, Memphis, TN
54	\$74,836.51	6315 Farm Hill, Memphis, TN
49	\$77,125.16	5371 Farm Ridge, Memphis, TN
47	\$79,980.01	6320 Hayfield Lane, W., Memphis, TN
56	\$75,257.40	6329 Hayfield Lane, Memphis, TN
55	\$75,644.14	6335 Hayfield Lane, Memphis, TN
52	\$93,520.79	5987 Hickory Grove, Memphis, TN
8	\$48,403.03	3027 Ridgeway, Memphis, TN
38	\$48,264.41	3322 Ridgeway, Memphis, TN
53	\$25,087.48	6738 Valley Bend, Memphis, TN
57	\$36,810.09	1599 Wilson, Memphis, TN
50	\$78,479.06	7800 Redfearn Circle South, Memphis, TN 38133

14. The Trustee moves the Court to determine that the principal balance owed is as asserted by the Trustee as of the Effective Date.

WHEREFORE, the Chapter 11 Trustee prays that the Court make a determination of the outstanding balances owed by the estate pursuant to the terms of Plan and grant the Chapter 11 Trustee such other relief to which he may be entitled.

GLANKLER BROWN, PLLC

By: /s/ Michael P. Coury
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was sent to the following via the Court's ECF electronic service system and/or first class U.S. mail, postage prepaid, this 23rd day of February 2018:

Jeremiah McGuire
Ryan Knop
Brock & Scott, PLLC
5050 Poplar Avenue, Suite 1608
Memphis, TN 38157

/s/ Michael P. Coury